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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

2

Application Number

10/820,392

Filing Date

4/6/04

First Named Inventor

Brubaker

Art Unit

3727

Examiner Name

Tri Mai

Attorney Docket Number

### ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☒

Amendment/Reply

☒

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/  
Incomplete Application

☐

Reply to Missing Parts  
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a  
Provisional Application

☐

Power of Attorney, Revocation

☐

Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) \_\_\_\_\_

Landscape Table on CD

☐

After Allowance Communication to TC

☐

Appeal Communication to Board  
of Appeals and Interferences

☐

Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☐

Other Enclosure(s) (please identify  
below):

Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Signature

Ken Campbell

Printed name

Ken Campbell

Date

2/5/07

Reg. No.

52,688

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February 3, 2007

Dear Mr. Mai:

In response to the Office Action regarding application #10/820,392 (Brubaker) issued on 11/03/06, I have provide arguments in favor of my client. I'd also like to thank you for your thoroughness in this matter.

With respect to your position on Pfeifer (D371,237), I must insist that design patents cannot be used to argue a question of function. If this is taken strictly on appearance, I would also insist the either our device looks different from Pfeifer's in size and appearance (please note the handles), or that Pfeifer's design looks too much like prior art that even *you* have referenced, and that it should not have been granted in the first place.

With Van Slyke (801,279), an envelope is claimed. I understand this as a sanitary cover for a mattress. Absolutely nothing in it speaks to protection against physical damage at all. Again, if an envelope is to be interpreted as meaning any form of cover, for any purpose, then likewise the other references you list would not have been granted either. The use of the envelope has nothing in common with our use as a physical barrier against damage. I can provide you with much case history on granted utility patents for new uses of earlier granted utility patents, if you need.

With Mason (3,126,933) and Mainwaring (D338,559), I must urge you to recognize that both the flap and fasteners are but a minor aspect of our invention. They cannot be considered as having been publicized by prior art, since they are not the invention, itself. Besides that, such things as snaps or flaps have always been used, and always will be used, as a means for fastening. Your reasoning on this suggests that nothing in the future should use snaps or flaps as a means of fastening ever again, because they were publicized long ago. I am sure that is not what you intend, respectfully. Please remember that our invention applies specifically to motorcycles.

Regards,

Ken Campbell